

Assembly Bill No. 1874

CHAPTER 322

An act to amend Section 20300 of the Government Code, and to amend Section 11770 of the Insurance Code, relating to workers' compensation insurance.

[Approved by Governor September 26, 2008. Filed with Secretary of State September 26, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1874, Coto. State Compensation Insurance Fund.

Existing law provides for the existence of the State Compensation Insurance Fund to be administered by its board of directors for the purpose of transacting workers' compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his or her agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents. Existing law provides that the board of directors of the State Compensation Insurance Fund is composed of 5 members, one of whom shall be from organized labor, appointed by the Governor. Existing law provides that the Governor shall appoint the chairperson who shall serve at the pleasure of the Governor, and makes the Director of Industrial Relations, the Speaker of the Assembly, and the President pro Tempore of the Senate, or their designees, ex officio, nonvoting members of the board. Existing law requires each board member to have been a policyholder or an employee or member of a policyholder in the fund, as specified, and to remain in that status during board membership.

This bill would provide that the Board of Directors of the State Compensation Insurance Fund is composed of 11 members, 9 of whom shall be appointed by the Governor. The members appointed by the Governor would include one from organized labor and the others would be required to have substantial experience in various positions, as specified. The Governor would appoint the chairperson. The Speaker of the Assembly would appoint one member who would represent organized labor, and the Senate Committee on Rules would appoint one member who shall have been a policyholder of the State Compensation Insurance Fund or an officer or employee of a policyholder, as specified. This bill would provide for the terms of office of board members, as specified. The Director of Industrial Relations would be an ex officio, nonvoting member of the board.

Existing law provides that the Speaker of the Assembly and the Speaker pro Tempore of the Senate, or their designees, shall be ex officio, nonvoting members of the board.

The bill would remove the Speaker of the Assembly and the Speaker pro Tempore of the Senate and their designees from membership on the board.

Existing law provides that members of the board shall receive their actual and necessary traveling expenses incurred while performing their duties and, with the exception of ex officio members, \$100 per day when they attend meetings.

This bill would provide that each voting member of the board shall be paid an annual compensation of \$50,000, to be automatically adjusted for inflation, as specified, beginning January 1, 2010. The bill would specify that these board members shall be excluded from the Public Employees' Retirement System. This bill would require each board member to attend training, as specified, and not have a financial conflict of interest, as defined. This bill would provide for removal of a board member, and appointment of his or her replacement, as specified. The bill would specify the committee structure of the State Compensation Insurance Fund.

This bill would state findings and declarations of the Legislature in regard to the State Compensation Insurance Fund and its board.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The State Compensation Insurance Fund is a nonprofit, self-supporting, fairly competitive public enterprise that serves a dual role as both a market of choice and the safety net for California employers seeking workers' compensation insurance.

(b) The State Compensation Insurance Fund plays a critical role in California's workers' compensation system.

(c) The successful governance of the State Compensation Insurance Fund directly correlates with a strong workers' compensation insurance market.

(d) Corporate board governance structure has undergone significant review and change within the private and nonprofit sectors in recent years to ensure the highest levels of stewardship and fiduciary accountability, and the development of modes of best practices.

(e) It is important to the success of the State Compensation Insurance Fund that board members, before joining the board and continually thereafter, should ensure that:

(1) They are free from potential conflicts that may disqualify them from important decisions or otherwise compromise their independence.

(2) They are motivated and available to engage as a board member in a meaningful way.

(3) They are attentive persons of integrity and provide meaningful oversight of the management's performance.

(4) The senior management they select and evaluate has integrity and sets a high ethical standard in improving corporate governance.

SEC. 2. Section 20300 of the Government Code is amended to read:

20300. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for the service they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aides in the special schools of the State Department of Education and in the public schools of the state.

(d) Persons employed as teacher assistants pursuant to Section 44926 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, Section 1501 et seq. of Title 29 of the United States Code. This subdivision does not apply with respect to persons employed in job classes that provide eligibility for patrol or safety membership or to the career staff employees of an employer.

(g) All persons who are members in any teachers' retirement system, as to the service in which they are members of any teachers' retirement system.

(h) Except as otherwise provided in this part, persons rendering professional legal services to a city, other than the person holding the office of city attorney, the office of assistant city attorney, or an established position of deputy city attorney.

(i) A person serving the university as a teacher in university extension, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(j) A person serving a California State University as a teacher in extension service, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(k) A teacher or academic employee of the university or any California State University who is otherwise fully employed and who serves as a teacher or in an academic capacity in any summer session or intersession, for which he or she receives compensation specifically attributable to that service in summer session or intersession, with respect to that service.

(l) A person who is employed under the California Senate Fellows, the Assembly Fellowship, the Judicial Administration Fellowship, or the Executive Fellowship programs.

(m) Board members of the State Compensation Insurance Fund, including those appointed by the Governor.

SEC. 3. Section 11770 of the Insurance Code is amended to read:

11770. (a) The State Compensation Insurance Fund is continued in existence, to be administered by its board of directors for the purpose of transacting workers' compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his or her agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for

employees and their dependents. Any appropriation made therefrom or thereto before the effective date of this code shall continue to be available for the purposes for which it was made.

(b) (1) The Board of Directors of the State Compensation Insurance Fund is composed of 11 members, nine of whom shall be appointed by the Governor. The Governor shall appoint the chairperson. One of the members appointed by the Governor shall be from organized labor. The members appointed by the Governor, other than the labor member, shall have substantial experience in positions involving workers' compensation, legal, investment, financial, corporate governance and management, accounting, or auditing responsibilities with entities of sufficient size as to make their qualifications relevant to an enterprise of the financial and operational size of the State Compensation Insurance Fund. At all times the board shall have a member with auditing background for the purposes of fulfilling the responsibility of the chair of the audit committee. A quorum is a majority of those appointed, provided that at no time shall a quorum be established with less than five members.

(2) The Speaker of the Assembly shall appoint one member who shall represent organized labor, and the Senate Committee on Rules shall appoint one member who shall have been a policyholder of the State Compensation Insurance Fund, or an officer or employee of a policyholder, for one year immediately preceding the appointment, and must continue in this status during the period of his or her membership.

(3) The Director of Industrial Relations shall be an ex officio, nonvoting member of the board, and shall not be counted as members of the board for quorum purposes or any other purpose.

(4) Notwithstanding subdivision (c), the initial term of the members of the board added in the 2008 portion of the 2007–2008 Regular Session shall be as follows:

(A) One of the members appointed by the Governor shall serve an initial term of two years, one shall serve an initial term of four years, and two shall serve an initial term of five years.

(B) The member appointed by the Senate Committee on Rules shall serve an initial term of four years.

(C) The member appointed by the Speaker of the Assembly shall serve an initial term of three years.

(c) The term of office of the members of the board, other than that of the director, shall be five years and they shall hold office until the appointment and qualification of their successors.

(d) (1) Each member of the board shall receive his or her actual and necessary traveling expenses incurred in the performance of his or her duties as a member and, with the exception of the ex officio members, one hundred dollars (\$100) for each day of his or her actual attendance at meetings of the board.

(2) (A) Each member of the board appointed pursuant to paragraphs (1) and (2) of subdivision (b) shall receive the compensation fixed pursuant to subparagraph (B).

(B) Each board member described in subparagraph (A) shall be paid an annual compensation of fifty thousand dollars (\$50,000), to be automatically adjusted beginning January 1, 2010, by multiplying the compensation in effect the prior June 30 by the percentage of inflation that occurred during the previous year, adding this amount to the annual compensation from the previous year, and rounding off the result to the nearest dollar. “Percentage of inflation” means the percentage of inflation specified in the Consumer Price Index for All Urban Consumers, as published by the Department of Industrial Relations, Division of Labor Statistics and Research, or its successor index.

(e) Each member of the board of directors shall attend training approved by the board of directors that covers topics, including, but not limited to, the duties and obligations of members of a board of directors, corporate governance, ethics, board of director legal issues, insurance, finance and investment, and information technology. The training shall be conducted by persons or entities not affiliated with the State Compensation Insurance Fund.

(f) No person who has had a direct or indirect interest in any transaction with the State Compensation Insurance Fund since the beginning of the last fiscal year of the fund, or who has a direct or indirect material interest in any proposed transaction with the fund, where the amount involved in the transaction exceeds one hundred twenty thousand dollars (\$120,000) shall be eligible for appointment as a member of the board of directors of the fund. Once appointed, no member of the board of directors shall have a financial conflict of interest, as defined in Chapter 7 of Title 9 (commencing with Section 87100) of the Government Code. Every member shall be subject to Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, provided that the existence of a contract of insurance between the State Compensation Insurance Fund and the policyholder member appointed by the Senate Committee on Rules shall not constitute a conflict pursuant to this subdivision.

(g) The appointing authority of a member of the board may remove the member and make an appointment replacing the member for the duration of the term if the member ceases to discharge the duties of his or her office for the period of three consecutive board meetings.

(h) The board of the State Compensation Insurance Fund shall create, at a minimum, an audit committee, an investment committee, a corporate governance committee, and other committees as the board determines are necessary.